

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
FLORENCE DIVISION

|                                    |   |                                     |
|------------------------------------|---|-------------------------------------|
| James H. Davis,                    | ) | Civil Action No.: 4:13-cv-01500-RBH |
|                                    | ) |                                     |
| Plaintiff,                         | ) |                                     |
|                                    | ) |                                     |
| v.                                 | ) | <b>ORDER</b>                        |
|                                    | ) |                                     |
| Donald Decker; Julie Decker; Horry | ) |                                     |
| County Sheriff's Dept.; and Myrtle | ) |                                     |
| Beach Police Dept.,                | ) |                                     |
|                                    | ) |                                     |
| Defendants.                        | ) |                                     |
| _____                              | ) |                                     |

Plaintiff James H. Davis, a state prisoner proceeding pro se, filed this action, alleging that his landlords, Defendants Donald Decker and Julie Decker, are unlawfully in possession of his assets and that the Horry County Sheriff's Department and the Myrtle Beach Police Department violated his due process rights in not properly investigating his complaints. Plaintiff also filed a motion for a financial restraining order against the Deckers. ECF No. 3. The matter is before the Court for review of the Report and Recommendation of United States Magistrate Judge Thomas E. Rogers, III, made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02 for the District of South Carolina. The Magistrate Judge recommends that the Court dismiss Plaintiff's complaint without prejudice and without service of process for failure to state a claim. Moreover, he recommends denying Plaintiff's motion as moot.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this Court. See Mathews v. Weber, 423 U.S. 261, 270-71 (1976). The Court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the

recommendation of the Magistrate Judge or recommit the matter with instructions. See 28 U.S.C. § 636(b)(1).

Neither party has filed objections to the Report and Recommendation. In the absence of objections to the Report and Recommendation of the Magistrate Judge, this Court is not required to give any explanation for adopting the recommendation. See Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983). The Court reviews only for clear error in the absence of an objection. See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation’ ”) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

After a thorough review of the record in this case, the Court finds no clear error. Accordingly, the Report and Recommendation of the Magistrate Judge is adopted and incorporated by reference. Therefore, it is

**ORDERED** that Plaintiff’s complaint be **DISMISSED** without prejudice and without service of process. Plaintiff’s motion for a financial restraining order (ECF No. 3) is **DENIED** as moot.

**IT IS SO ORDERED.**

s/ R. Bryan Harwell  
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R. Bryan Harwell  
United States District Judge

Florence, South Carolina  
November 4, 2013